

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

VICTOR MORALES,

Petitioner,

v.

DAVID BREWER,

Respondent.

No. 2:22-cv-02207-DAD-AC (HC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
HABEAS PETITION

(Doc. No. 7)

Petitioner Victor Morales is a federal prisoner proceeding *pro se* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On May 24, 2023, the assigned magistrate judge issued findings and recommendations recommending that the pending petition be dismissed without prejudice. (Doc. No. 7.) Therein, the magistrate judge concluded that petitioner's claim that he is entitled to have his First Sep Act (FSA) time credits applied toward his supervised release rather than prerelease custody failed as a matter of law because that determination was a decision specifically placed within the discretion of the U.S. Bureau of Prisons (BOP). (*Id.* at 3–5.) The findings and recommendations also concluded that petitioner lacked standing to challenge BOP's initial position that he was ineligible to have his FSA time credits applied because he had a lodged detainer or unresolved immigration issues because, after the pending petition was filed, the BOP issued a change notice to the

1 program statement so that petitioner is no longer barred from having his FSA credits applied for
2 that reason. (*Id.* at 4–5.)

3 The pending findings and recommendations were served upon the parties and contained
4 notice that any objections thereto were to be filed within twenty-one (21) days after service. (*Id.*
5 at 4.) To date, petitioner has not filed any objections and the time in which to do so has passed.¹

6 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the court has conducted a
7 *de novo* review of the case. Having carefully reviewed the entire file, the court concludes that the
8 pending findings and recommendations are supported by the record and proper analysis.

9 Accordingly,

- 10 1. The findings and recommendations issued on May 24, 2023 (Doc. No. 7) are
11 adopted in full;
- 12 2. The petition for writ of habeas corpus brought pursuant to 28 U.S.C. § 2241 (Doc.
13 No. 1) is dismissed without prejudice; and
- 14 3. The Clerk of the Court is directed to close this case.²

15 IT IS SO ORDERED.

16 Dated: July 12, 2023

17 
UNITED STATES DISTRICT JUDGE

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25 ¹ The service copy of the findings and recommendations, which was mailed to petitioner at his
26 address of record, was returned to the court on June 13, 2023, as “undeliverable, not known.”

27 ² A certificate of appealability is not required for an appeal from the denial of a petition for writ
28 of habeas corpus such as this one brought pursuant to 28 U.S.C. § 2241. *See* 28 U.S.C. § 2253;
Harrison v. Ollison, 519 F.3d 952 (9th Cir. 2008).